

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

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|--------------------------|---|-----------------------------------|
| UNITED STATES OF AMERICA |) | CASE NO.1:05cr44-17 |
| |) | |
| Plaintiff |) | JUDGE SOLOMON OLIVER, JR. |
| |) | |
| vs. |) | |
| |) | <u>ORDER ACCEPTING PLEA</u> |
| TIMOTHY DAVIS |) | <u>AGREEMENT, JUDGMENT, AND</u> |
| |) | <u>REFERRAL TO U.S. PROBATION</u> |
| Defendant |) | <u>OFFICE</u> |

This case is before the Court on a Report and Recommendation filed by United States Magistrate Judge Hemann regarding the change of plea hearing and plea agreement of the above named defendant, which was referred to the Magistrate Judge with the consent of the parties.

On 2 February 2005, the government filed an indictment against the defendant for conspiracy to possess with intent to distribute cocaine base in violation of 21 USC 846. Defendant was arraigned in February 2005, at which time the defendant herein entered a plea of not guilty. On 7 October 2005, Magistrate Judge Hemann received defendant's plea of guilty and issued a Report and Recommendation ("R&R")

concerning whether the plea should be accepted and a finding of guilty entered.

Magistrate Judge Hemann filed her R&R on 7 October 2005.

Neither party submitted objections to the Magistrate Judge's R&R in the ten days after it was issued.

On de novo review of the record, the Magistrate Judge's R&R is adopted. The defendant is found to be competent to enter a plea and to understand his constitutional rights. He is aware of the charges and of the consequences of entering a plea. There is an adequate factual basis for the plea. The Court finds the plea was entered knowingly, intelligently, and voluntarily. The plea agreement is approved.

Therefore, the defendant is adjudged guilty of Count 1 of the Superseding Indictment in violation of 21 USC 846. This matter is referred to the U.S. Probation Department for the completion of a pre-sentence investigation and report. Sentencing will be on 14 December 2005 at 1:00 p.m. in Courtroom 17A.

IT IS SO ORDERED.

/s/ Solomon Oliver, Jr.
UNITED STATES DISTRICT JUDGE